

1 AN ACT in relation to environmental protection.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Drycleaner Environmental Response Trust
5 Fund Act is amended by changing Sections 5, 15, 25, 30, 40,
6 45, 60, 65, 75, and 85 as follows:

7 (415 ILCS 135/5)

8 Sec. 5. Definitions. As used in this Act:

9 (a) "Active drycleaning facility" means a drycleaning
10 facility actively engaged in drycleaning operations and
11 licensed under Section 60 of this Act.

12 (b) "Agency" means the Illinois Environmental Protection
13 Agency.

14 (c) "Claimant" means an owner or operator of a
15 drycleaning facility who has applied for reimbursement from
16 the remedial account or who has submitted a claim under the
17 insurance account with respect to a release.

18 (d) "Council" means the Drycleaner Environmental
19 Response Trust Fund Council.

20 (e) "Drycleaner Environmental Response Trust Fund" or
21 "Fund" means the fund created under Section 10 of this Act.

22 (f) "Drycleaning facility" means a facility located in
23 this State that is or has been engaged in drycleaning
24 operations for the general public, other than a:

25 (1) facility located on a United States military
26 base;

27 (2) industrial laundry, commercial laundry, or
28 linen supply facility;

29 (3) prison or other penal institution that engages
30 in drycleaning only as part of a Correctional Industries
31 program to provide drycleaning to persons who are

1 incarcerated in a prison or penal institution or to
2 resident patients of a State-operated mental health
3 facility;

4 (4) not-for-profit hospital or other health care
5 facility; or a

6 (5) facility located or formerly located on federal
7 or State property.

8 (g) "Drycleaning operations" means drycleaning of
9 apparel and household fabrics for the general public, as
10 described in Standard Industrial Classification Industry No.
11 7215 and No. 7216 in the Standard Industrial Classification
12 Manual (SIC) by the Technical Committee on Industrial
13 Classification.

14 (h) "Drycleaning solvent" means any and all nonaqueous
15 solvents, including but not limited to a chlorine-based or
16 petroleum-based hydrocarbon-based formulation or product,
17 including green solvents, that are ~~is~~ used as a primary
18 cleaning agent in drycleaning operations.

19 (i) "Emergency" or "emergency action" means a situation
20 or an immediate response to a situation to protect public
21 health or safety. "Emergency" or "emergency action" does not
22 mean removal of contaminated soils, recovery of free
23 product, or financial hardship. An "emergency" or "emergency
24 action" would normally be expected to be directly related to
25 a sudden event or discovery and would last until the threat
26 to public health is mitigated.

27 (j) "Groundwater" means underground water that occurs
28 within the saturated zone and geologic materials where the
29 fluid pressure in the pore space is equal to or greater than
30 the atmospheric pressure.

31 (k) "Inactive drycleaning facility" means a drycleaning
32 facility that is not being used for drycleaning operations
33 and is not registered under this Act.

34 (l) "Maintaining a place of business in this State" or

1 any like term means (1) having or maintaining within this
2 State, directly or through a subsidiary, an office,
3 distribution facility, distribution house, sales house,
4 warehouse, or other place of business or (2) operating within
5 this State as an agent or representative for a person or a
6 person's subsidiary engaged in the business of selling to
7 persons within this State, irrespective of whether the place
8 of business or agent or other representative is located in
9 this State permanently or temporary, or whether the person or
10 the person's subsidiary engages in the business of selling in
11 this State.

12 (m) "No Further Remediation Letter" means a letter
13 provided by the Agency pursuant to Section 58.10 of Title
14 XVII of the Environmental Protection Act.

15 (n) "Operator" means a person or entity holding a
16 business license to operate a licensed drycleaning facility
17 or the business operation of which the drycleaning facility
18 is a part.

19 (o) "Owner" means (1) a person who owns or has
20 possession or control of a drycleaning facility at the time a
21 release is discovered, regardless of whether the facility
22 remains in operation or (2) a parent corporation of the
23 person under item (1) of this subdivision.

24 (p) "Parent corporation" means a business entity or
25 other business arrangement that has elements of common
26 ownership or control or that uses a long-term contractual
27 arrangement with a person to avoid direct responsibility for
28 conditions at a drycleaning facility.

29 (q) "Person" means an individual, trust, firm, joint
30 stock company, corporation, consortium, joint venture, or
31 other commercial entity.

32 (r) "Program year" means the period beginning on July 1
33 and ending on the following June 30.

34 (s) "Release" means any spilling, leaking, emitting,

1 discharging, escaping, leaching, or dispersing of drycleaning
2 solvents from a drycleaning facility to groundwater, surface
3 water, or subsurface soils.

4 (t) "Remedial action" means activities taken to comply
5 with Sections 58.6 and 58.7 of the Environmental Protection
6 Act and rules adopted by the Pollution Control Board under
7 those Sections.

8 (u) "Responsible party" means an owner, operator, or
9 other person financially responsible for costs of remediation
10 of a release of drycleaning solvents from a drycleaning
11 facility.

12 (v) "Service provider" means a consultant, testing
13 laboratory, monitoring well installer, soil boring
14 contractor, other contractor, lender, or any other person who
15 provides a product or service for which a claim for
16 reimbursement has been or will be filed against the remedial
17 account or insurance account, or a subcontractor of such a
18 person.

19 (w) "Virgin facility" means a drycleaning facility that
20 has never had chlorine-based or petroleum-based drycleaning
21 solvents stored or used at the property prior to it becoming
22 a green solvent drycleaning facility.

23 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

24 (415 ILCS 135/15)

25 Sec. 15. Creation of Council.

26 (a) The Drycleaner Environmental Response Trust Fund
27 Council is established and shall consist of the following
28 voting members to be appointed by the Governor:

29 (1) Four Three members who own or operate a
30 drycleaning facility. ~~Two--of--these--members--must--be~~
31 ~~members--of--the--Illinois--State--Fabricare-Association.~~
32 These members shall serve 3 year terms, except that of
33 the initial members appointed, one shall be appointed for

1 a term of one year, one for a term of 2 years, and one
2 for a term of 3 years.

3 (2) One member who represents wholesale
4 distributors of drycleaning solvents. This member shall
5 serve for a term of 3 years.

6 (3) One member who represents the drycleaning
7 equipment manufacturers and vendor community. This
8 member shall serve for a term of 3 years.

9 (4) One member ~~Two--members~~ with experience in
10 financial markets or the insurance industry. This member
11 ~~These-members~~ shall serve ~~3-year-terms,~~~~--except--that--of~~
12 ~~the--initial--appointments,~~~~--one--shall--be--appointed--for--a~~
13 ~~term--of--2--years,~~~~--and--one~~ for a term of 3 years.

14 Each member shall have experience, knowledge, and
15 expertise relating to the subject matter of this Act.

16 (b) The Governor may remove any member of the Council
17 for incompetency, neglect of duty, or malfeasance in office
18 after service on him or her of a copy of the written charges
19 against him or her and after an opportunity to be publicly
20 heard in person or by counsel in his or her own defense no
21 earlier than 10 days after the Governor has provided notice
22 of the opportunity to the Council member. Evidence of
23 incompetency, neglect of duty, or malfeasance in office may
24 be provided to the Governor by the Agency or the Auditor
25 General following the annual audit described in Section 80.

26 (c) Members of the Council are entitled to receive
27 reimbursement of actual expenses incurred in the discharge of
28 their duties within the limit of funds appropriated to the
29 Council or made available to the Fund. The Governor shall
30 appoint a chairperson of the Council from among the members
31 of the Council.

32 (d) The Attorney General's office or its designee shall
33 provide legal counsel to the Council.

34 (Source: P.A. 90-502, eff. 8-19-97.)

1 (415 ILCS 135/25)

2 Sec. 25. Powers and duties of the Council.

3 (a) The Council shall have all of the general powers
4 reasonably necessary and convenient to carry out its purposes
5 and may perform the following functions, subject to any
6 express limitations contained in this Act:

7 (1) Take actions and enter into agreements
8 necessary to reimburse claimants for eligible remedial
9 action expenses, assist the Agency to protect the
10 environment from releases, reduce costs associated with
11 remedial actions, and establish and implement an
12 insurance program.

13 (2) Acquire and hold personal property to be used
14 for the purpose of remedial action.

15 (3) Purchase, construct, improve, furnish, equip,
16 lease, option, sell, exchange, or otherwise dispose of
17 one or more improvements under the terms it determines.
18 The Council may define "improvements" by rule for
19 purposes of this Act.

20 (4) Grant a lien, pledge, assignment, or other
21 encumbrance on one or more revenues, assets of right,
22 accounts, or funds established or received in connection
23 with the Fund, including revenues derived from fees or
24 taxes collected under this Act.

25 (5) Contract for the acquisition or construction of
26 one or more improvements or parts of one or more
27 improvements or for the leasing, subleasing, sale, or
28 other disposition of one or more improvements in a manner
29 the Council determines.

30 (6) Cooperate with the Agency in the implementation
31 and administration of this Act to minimize unnecessary
32 duplication of effort, reporting, or paperwork and to
33 maximize environmental protection within the funding
34 limits of this Act.

1 (7) Except as otherwise provided by law, inspect
2 any document in the possession of an owner, operator,
3 service provider, or any other person if the document is
4 relevant to a claim for reimbursement under this Section
5 or may inspect a drycleaning facility for which a claim
6 for benefits under this Act has been submitted.

7 (b) The Council shall pre-approve, and the contracting
8 parties shall seek pre-approval for, a contract entered into
9 under this Act if the cost of the contract exceeds \$75,000.
10 The Council or its designee shall review and approve or
11 disapprove all contracts entered into under this Act.
12 However, review by the Council or its designee shall not be
13 required when an emergency situation exists. All contracts
14 entered into by the Council shall be awarded on a
15 competitive basis to the maximum extent practical. In those
16 situations where it is determined that bidding is not
17 practical, the basis for the determination of
18 impracticability shall be documented by the Council or its
19 designee.

20 (c) The Council may prioritize the expenditure of funds
21 from the remedial action account whenever it determines that
22 there are not sufficient funds to settle all current claims.
23 In prioritizing, the Council may consider the following:

24 (1) the degree to which human health is affected by
25 the exposure posed by the release;

26 (2) the reduction of risk to human health derived
27 from remedial action compared to the cost of the
28 remedial action;

29 (3) the present and planned uses of the impacted
30 property; and

31 (4) other factors as determined by the Council.

32 (d) The Council shall adopt rules allowing the direct
33 payment from the Fund to a contractor who performs
34 remediation. The rules concerning the direct payment shall

1 include a provision that any applicable deductible must be
2 paid by the drycleaning facility prior to any direct payment
3 from the Fund.

4 (e) The Council may purchase reinsurance coverage to
5 reduce the Fund's potential liability for reimbursement of
6 remedial action costs.

7 (Source: P.A. 90-502, eff. 8-19-97.)

8 (415 ILCS 135/30)

9 Sec. 30. Independent contractors retained by Council.

10 (a) A contract entered into to retain a person to act as
11 the administrator of the Fund shall be subject to public bid,
12 provided that no such contract shall be entered into without
13 the review and approval of the Director of the Agency. The
14 Council may enter into a contract or an agreement authorized
15 under this Act with a person, the Agency, the Department of
16 Revenue, other departments, agencies, or governmental
17 subdivisions of this State, another state, or the United
18 States, in connection with its administration and
19 implementation of this Act.

20 (b) The Council may reimburse a public or private
21 contractor retained pursuant to this Section for expenses
22 incurred in the execution of a contract or agreement.
23 Reimbursable expenses include the costs of performing duties
24 or powers specifically delegated by the Council.

25 (Source: P.A. 90-502, eff. 8-19-97.)

26 (415 ILCS 135/40)

27 Sec. 40. Remedial action account.

28 (a) The remedial action account is established to
29 provide reimbursement to eligible claimants for drycleaning
30 solvent investigation, remedial action planning, and remedial
31 action activities for existing drycleaning solvent
32 contamination discovered at their drycleaning facilities.

1 (b) The following persons are eligible for reimbursement
2 from the remedial action account:

3 (1) In the case of claimant who is the owner or
4 operator of an active drycleaning facility licensed by
5 the Council under this Act at the time of application for
6 remedial action benefits afforded under the Fund, the
7 claimant is only eligible for reimbursement of remedial
8 action costs incurred in connection with a release from
9 that drycleaning facility, subject to any other
10 limitations under this Act.

11 (2) In the case of a claimant who is the owner of
12 an inactive drycleaning facility and was the owner or
13 operator of the drycleaning facility when it was an
14 active drycleaning facility, the claimant is only
15 eligible for reimbursement of remedial action costs
16 incurred in connection with a release from the
17 drycleaning facility, subject to any other limitations
18 under this Act.

19 (c) An eligible claimant requesting reimbursement from
20 the remedial action account shall meet all of the following:

21 (1) The claimant demonstrates that the source of
22 the release is from the claimant's drycleaning facility.

23 (2) At the time the release was discovered by the
24 claimant, the claimant and the drycleaning facility were
25 in compliance with the Agency reporting and technical
26 operating requirements.

27 (3) The claimant reported the release in a timely
28 manner to the Agency in accordance with State law.

29 (4) The claimant applying for reimbursement has not
30 filed for bankruptcy on or after the date of his or her
31 discovery of the release.

32 (5) If the claimant is the owner or operator of an
33 active drycleaning facility, the claimant has provided to
34 the Council proof of implementation and maintenance of

1 the following pollution prevention measures:

2 (A) That all drycleaning solvent wastes
3 generated at a drycleaning facility be managed in
4 accordance with applicable State waste management
5 laws and rules.

6 (B) A prohibition on the discharge of
7 wastewater from drycleaning machines or of
8 drycleaning solvent from drycleaning operations to a
9 sanitary sewer or septic tank or to the surface or
10 in groundwater.

11 (C) That every drycleaning facility:

12 (I) install a containment dike or other
13 containment structure around each machine, ~~or~~
14 item of equipment, ~~or the entire~~ drycleaning
15 area, and portable waste container in which any
16 drycleaning solvent is utilized, which shall be
17 capable of containing leaks, spills, or
18 releases any ~~leak, spill, or release~~ of
19 drycleaning solvent from that machine, item, ~~or~~
20 area, or container. The containment dike or
21 other containment structure shall be capable of
22 at least the following: (i) containing a
23 capacity of 110% of the drycleaning solvent in
24 the largest tank or vessel within the machine;
25 (ii) containing 100% of the drycleaning solvent
26 of each item of equipment or drycleaning area;
27 and (iii) containing 100% of the drycleaning
28 solvent of the largest portable waste container
29 or at least 10% of the total volume of the
30 portable waste containers stored within the
31 containment dike or structure, whichever is
32 greater.

33 Petroleum underground storage tank systems
34 that are upgraded in accordance with USEPA

1 upgrade standards pursuant to 40 CFR Part 280
2 for the tanks and related piping systems and
3 use a leak detection system approved by the
4 USEPA or IEPA are exempt from this secondary
5 containment requirement; and

6 (II) seal or otherwise render impervious
7 those portions of diked floor surfaces on which
8 a drycleaning solvent may leak, spill, or
9 otherwise be released.

10 (D) A requirement that all drycleaning solvent
11 shall be delivered to drycleaning facilities by
12 means of closed, direct-coupled delivery systems.

13 (6) An active drycleaning facility has maintained
14 continuous financial assurance for environmental
15 liability coverage in the amount of at least \$500,000 at
16 least since the date of award of benefits under this
17 Section or July 1, 2000, whichever is earlier. An
18 uninsured drycleaning facility that has filed an
19 application for insurance with the Fund by January 1,
20 2004, obtained insurance through that application, and
21 maintained that insurance coverage continuously shall be
22 considered to have conformed with the requirements of
23 this subdivision (6). To conform with this requirement
24 the applicant must pay the equivalent of the total
25 premiums due for the period beginning June 30, 2000
26 through the date of application plus a 20% penalty of the
27 total premiums due for that period.

28 (7) The release was discovered on or after July 1,
29 1997 and before July 1, 2006 2004.

30 (d) A claimant shall submit a completed application form
31 provided by the Council. The application shall contain
32 documentation of activities, plans, and expenditures
33 associated with the eligible costs incurred in response to a
34 release of drycleaning solvent from a drycleaning facility.

1 Application for remedial action account benefits must be
2 submitted to the Council on or before June 30, 2005 2004.

3 (e) Claimants shall be subject to the following
4 deductible requirements, unless modified pursuant to the
5 Council's authority under Section 75:

6 (1) An eligible claimant submitting a claim for an
7 active drycleaning facility is responsible for the first
8 \$5,000 of eligible investigation costs and for the first
9 \$10,000 of eligible remedial action costs incurred in
10 connection with the release from the drycleaning facility
11 and is only eligible for reimbursement for costs that
12 exceed those amounts, subject to any other limitations of
13 this Act.

14 (2) An eligible claimant submitting a claim for an
15 inactive drycleaning facility is responsible for the
16 first \$10,000 of eligible investigation costs and for the
17 first \$10,000 of eligible remedial action costs incurred
18 in connection with the release from that drycleaning
19 facility, and is only eligible for reimbursement for
20 costs that exceed those amounts, subject to any other
21 limitations of this Act.

22 (f) Claimants are subject to the following limitations
23 on reimbursement:

24 (1) Subsequent to meeting the deductible
25 requirements of subsection (e), and pursuant to the
26 requirements of Section 75, reimbursement shall not
27 exceed \$300,000 per active drycleaning facility and
28 \$50,000 per inactive drycleaning facility.‡

29 ~~{A}--\$160,000-per-active--drycleaning--facility~~
30 ~~for--which-an-eligible-claim-is-submitted-during-the~~
31 ~~program-year-beginning-July-17-1999;~~

32 ~~{B}--\$150,000-per-active--drycleaning--facility~~
33 ~~for--which-an-eligible-claim-is-submitted-during-the~~
34 ~~program-year-beginning-July-17-2000;~~

1 ~~(C)--\$140,000-per-active--drycleaning--faeility~~
 2 ~~for--which-an-eligible-claim-is-submitted-during-the~~
 3 ~~program-year-beginning-July-1,2001;~~

4 ~~(D)--\$130,000-per-active--drycleaning--faeility~~
 5 ~~for--which-an-eligible-claim-is-submitted-during-the~~
 6 ~~program-year-beginning-July-1,2002;~~

7 ~~(E)--\$120,000-per-active--drycleaning--faeility~~
 8 ~~for-which-an-eligible--claim-is-submitted-during-the~~
 9 ~~program-year-beginning-July-1,2003;-or~~

10 ~~(F)--\$50,000-per-inactive-drycleaning-faeility.~~

11 (2) A contract in which one of the parties to the
 12 contract is a claimant, for goods or services that may be
 13 payable or reimbursable from the Council, is void and
 14 unenforceable unless and until the Council has found that
 15 the contract terms are within the range of usual and
 16 customary rates for similar or equivalent goods or
 17 services within this State and has found that the goods
 18 or services are necessary for the claimant to comply with
 19 Council standards or other applicable regulatory
 20 standards.

21 (3) A claimant may appoint the Council as an agent
 22 for the purposes of negotiating contracts with suppliers
 23 of goods or services reimbursable by the Fund. The
 24 Council may select another contractor for goods or
 25 services other than the one offered by the claimant if
 26 the scope of the proposed work or actual work of the
 27 claimant's offered contractor does not reflect the
 28 quality of workmanship required or if the costs are
 29 determined to be excessive, as determined by the Council.

30 (4) The Council may require a claimant to obtain
 31 and submit 3 bids and may require specific terms and
 32 conditions in a contract subject to approval.

33 (5) The Council may enter into a contract or an
 34 exclusive contract with the supplier of goods or services

1 required by a claimant or class of claimants, in
2 connection with an expense reimbursable from the Fund,
3 for a specified good or service at a gross maximum price
4 or fixed rate, and may limit reimbursement accordingly.

5 (6) Unless emergency conditions exist, a service
6 provider shall obtain the Council's approval of the
7 budget for the remediation work before commencing the
8 work. No expense incurred that is above the budgeted
9 amount shall be paid unless the Council approves the
10 expense prior to its being incurred. All invoices and
11 bills relating to the remediation work shall be submitted
12 with appropriate documentation, as deemed necessary by
13 the Council, not later than 30 days after the work has
14 been performed.

15 (7) Neither the Council nor an eligible claimant is
16 responsible for payment for costs incurred that have not
17 been previously approved by the Council, unless an
18 emergency exists.

19 (8) The Council may determine the usual and
20 customary costs of each item for which reimbursement may
21 be awarded under this Section. The Council may revise the
22 usual and customary costs from time to time as necessary,
23 but costs submitted for reimbursement shall be subject to
24 the rates in effect at the time the costs were incurred.

25 (9) If a claimant has pollution liability insurance
26 coverage other than coverage provided by the insurance
27 account under this Act, that coverage shall be primary.
28 Reimbursement from the remedial account shall be limited
29 to the deductible amounts under the primary coverage and
30 the amount that exceeds the policy limits of the primary
31 coverage, subject to the deductible amounts of this Act.
32 If there is a dispute between the claimant and the
33 primary insurance provider, reimbursement from the
34 remedial action account may be made to the claimant after

1 the claimant assigns all of his or her interests in the
2 insurance coverage to the Council.

3 (g) The source of funds for the remedial action account
4 shall be moneys allocated to the account by the Council
5 according to the Fund budget approved by the Council.

6 (h) A drycleaning facility will be classified as active
7 or inactive for purposes of determining benefits under this
8 Section based on the status of the facility on the date a
9 claim is filed.

10 (i) Eligible claimants shall conduct remedial action in
11 accordance with the Site Remediation Program under the
12 Environmental Protection Act and Part 740 of Title 35 of the
13 Illinois Administrative Code and the Tiered Approach to
14 Cleanup Objectives under Part 742 of Title 35 of the Illinois
15 Administrative Code.

16 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

17 (415 ILCS 135/45)

18 Sec. 45. Insurance account.

19 (a) The insurance account shall offer financial
20 assurance for a qualified owner or operator of a drycleaning
21 facility under the terms and conditions provided for under
22 this Section. Coverage may be provided to either the owner or
23 the operator of a drycleaning facility. The Council is not
24 required to resolve whether the owner or operator, or both,
25 are responsible for a release under the terms of an agreement
26 between the owner and operator.

27 (b) The source of funds for the insurance account shall
28 be as follows:

29 (1) Moneys appropriated to the Council or moneys
30 allocated to the insurance account by the Council
31 according to the Fund budget approved by the Council.

32 (2) Moneys collected as an insurance premium,
33 including service fees, if any.

1 (3) Investment income attributed to the insurance
2 account by the Council.

3 (c) An owner or operator may purchase coverage of up to
4 \$500,000 per drycleaning facility subject to the terms and
5 conditions under this Section and those adopted by the
6 Council. Coverage shall be limited to remedial action costs
7 associated with soil and groundwater contamination resulting
8 from a release of drycleaning solvent at an insured
9 drycleaning facility, including third-party liability for
10 soil and groundwater contamination. Coverage is not provided
11 for a release that occurred before the date of coverage.

12 (d) An owner or operator, subject to underwriting
13 requirements and terms and conditions deemed necessary and
14 convenient by the Council, may purchase insurance coverage
15 from the insurance account provided that the drycleaning
16 facility to be insured meets the following conditions:

17 (1) a site investigation designed to identify soil
18 and groundwater contamination resulting from the release
19 of a drycleaning solvent has been completed. The Council
20 shall determine if the site investigation is adequate.
21 This investigation must be completed by June 30, 2006
22 2004. For drycleaning facilities that apply for
23 insurance coverage ~~become--active~~ after June 30, 2006
24 2004, the site investigation must be completed prior to
25 issuance of insurance coverage; and

26 (2) the drycleaning facility is participating in
27 and meets all requirements of a drycleaning compliance
28 program approved by the Council.

29 (e) The annual premium for insurance coverage shall be:

30 (1) For the year July 1, 1999 through June 30,
31 2000, \$250 per drycleaning facility.

32 (2) For the year July 1, 2000 through June 30,
33 2001, \$375 per drycleaning facility.

34 (3) For the year July 1, 2001 through June 30,

1 2002, \$500 per drycleaning facility.

2 (4) For the year July 1, 2002 through June 30,
3 2003, \$625 per drycleaning facility.

4 (5) For subsequent years, an owner or operator
5 applying for coverage shall pay an annual
6 actuarially-sound insurance premium for coverage by the
7 insurance account. The Council may approve Fund coverage
8 through the payment of a premium established on an
9 actuarially-sound basis, taking into consideration the
10 risk to the insurance account presented by the insured.
11 Risk factor adjustments utilized to determine
12 actuarially-sound insurance premiums should reflect the
13 range of risk presented by the variety of drycleaning
14 systems, monitoring systems, drycleaning volume, risk
15 management practices, and other factors as determined by
16 the Council. As used in this item, "actuarially sound" is
17 not limited to Fund premium revenue equaling or exceeding
18 Fund expenditures for the general drycleaning facility
19 population. Actuarially-determined premiums shall be
20 published at least 180 days prior to the premiums
21 becoming effective.

22 (f) If coverage is purchased for any part of a year, the
23 purchaser shall pay the full annual premium. The insurance
24 premium is fully earned upon issuance of the insurance
25 policy.

26 (g) The insurance coverage shall be provided with a
27 \$10,000 deductible policy.

28 (h) A future repeal of this Section shall not terminate
29 the obligations under this Section or authority necessary to
30 administer the obligations until the obligations are
31 satisfied, including but not limited to the payment of claims
32 filed prior to the effective date of any future repeal
33 against the insurance account until moneys in the account are
34 exhausted. Upon exhaustion of the moneys in the account, any

1 remaining claims shall be invalid. If moneys remain in the
 2 account following satisfaction of the obligations under this
 3 Section, the remaining moneys and moneys due the account
 4 shall be used to assist current insureds to obtain a viable
 5 insuring mechanism as determined by the Council after public
 6 notice and opportunity for comment.

7 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

8 (415 ILCS 135/60)

9 (Section scheduled to be repealed on January 1, 2010)

10 Sec. 60. Drycleaning facility license.

11 (a) On and after January 1, 1998, no person shall
 12 operate a drycleaning facility in this State without a
 13 license issued by the Council.

14 (b) The Council shall issue an initial or renewal
 15 license to a drycleaning facility on submission by an
 16 applicant of a completed form prescribed by the Council and
 17 proof of payment of the required fee to the Department of
 18 Revenue.

19 (c) On or after January 1, 2004, the annual fees for
 20 licensure are as follows:

21 (1) \$500 for a facility that uses (i) 50 purchases
 22 140 gallons or less of chlorine-based or green
 23 drycleaning solvents annually, (ii) 250 or less gallons
 24 annually of hydrocarbon-based drycleaning solvents in a
 25 drycleaning machine equipped with a solvent reclaimer, or
 26 (iii) 500 1400 gallons or less annually of
 27 hydrocarbon-based drycleaning solvents in a drycleaning
 28 machine without a solvent reclaimer annually.

29 (2) \$500 \$1,000 for a facility that uses (i)
 30 purchases more than 50 140 gallons but not more than 100
 31 less---than---360 gallons of chlorine-based or green
 32 drycleaning solvents annually, (ii) more than 250 gallons
 33 but not more 500 gallons annually of hydrocarbon-based

1 solvents in a drycleaning machine equipped with a solvent
 2 reclaimer, or (iii) more than 500 1400 gallons but not
 3 more than 1,000 less--than--3600 gallons annually of
 4 hydrocarbon-based drycleaning solvents in a drycleaning
 5 machine without a solvent reclaimer annually.

6 (3) \$500 \$1,500 for a facility that uses (i) more
 7 than 100 purchases--360 gallons but not more than 150
 8 gallons or more of chlorine-based or green drycleaning
 9 solvents annually, (ii) more than 500 gallons but not
 10 more than 750 gallons annually of hydrocarbon-based
 11 solvents in a drycleaning machine equipped with a solvent
 12 reclaimer, or (iii) more than 1,000 gallons but not more
 13 than 1,500 gallons annually 3600--gallons--or more of
 14 hydrocarbon-based drycleaning solvents in a drycleaning
 15 machine without a solvent reclaimer annually.

16 (4) \$1,000 for a facility that uses (i) more than
 17 150 gallons but not more than 200 gallons of
 18 chlorine-based or green drycleaning solvents annually,
 19 (ii) more than 750 gallons but not more than 1,000
 20 gallons annually of hydrocarbon-based solvents in a
 21 drycleaning machine equipped with a solvent reclaimer, or
 22 (iii) more than 1,500 gallons but not more than 2,000
 23 gallons annually of hydrocarbon-based drycleaning
 24 solvents in a drycleaning machine without a solvent
 25 reclaimer.

26 (5) \$1,000 for a facility that uses (i) more than
 27 200 gallons but not more than 250 gallons of
 28 chlorine-based or green drycleaning solvents annually,
 29 (ii) more than 1,000 gallons but not more than 1,250
 30 gallons annually of hydrocarbon-based solvents in a
 31 drycleaning machine equipped with a solvent reclaimer, or
 32 (iii) more than 2,000 gallons but not more than 2,500
 33 gallons annually of hydrocarbon-based drycleaning
 34 solvents in a drycleaning machine without a solvent

1 reclaimer.

2 (6) \$1,000 for a facility that uses (i) more than
3 250 gallons but not more than 300 gallons of
4 chlorine-based or green drycleaning solvents annually,
5 (ii) more than 1,250 gallons but not more than 1,500
6 gallons annually of hydrocarbon-based solvents in a
7 drycleaning machine equipped with a solvent reclaimer, or
8 (iii) more than 2,500 gallons but not more than 3,000
9 gallons annually of hydrocarbon-based drycleaning
10 solvents in a drycleaning machine without a solvent
11 reclaimer.

12 (7) \$1,000 for a facility that uses (i) more than
13 300 gallons but not more than 350 gallons of
14 chlorine-based or green drycleaning solvents annually,
15 (ii) more than 1,500 gallons but not more than 1,750
16 gallons annually of hydrocarbon-based solvents in a
17 drycleaning machine equipped with a solvent reclaimer, or
18 (iii) more than 3,000 gallons but not more than 3,500
19 gallons annually of hydrocarbon-based drycleaning
20 solvents in a drycleaning machine without a solvent
21 reclaimer.

22 (8) \$1,500 for a facility that uses (i) more than
23 350 gallons but not more than 400 gallons of
24 chlorine-based or green drycleaning solvents annually,
25 (ii) more than 1,750 gallons but not more than 2,000
26 gallons annually of hydrocarbon-based solvents in a
27 drycleaning machine equipped with a solvent reclaimer, or
28 (iii) more than 3,500 gallons but not more than 4,000
29 gallons annually of hydrocarbon-based drycleaning
30 solvents in a drycleaning machine without a solvent
31 reclaimer.

32 (9) \$1,500 for a facility that uses (i) more than
33 400 gallons but not more than 450 gallons of
34 chlorine-based or green drycleaning solvents annually,

1 (ii) more than 2,000 gallons but not more than 2,250
2 gallons annually of hydrocarbon-based solvents in a
3 drycleaning machine equipped with a solvent reclaimer, or
4 (iii) more than 4,000 gallons but not more than 4,500
5 gallons annually of hydrocarbon-based drycleaning
6 solvents in a drycleaning machine without a solvent
7 reclaimer.

8 (10) \$1,500 for a facility that uses (i) more than
9 450 gallons but not more than 500 gallons of
10 chlorine-based or green drycleaning solvents annually,
11 (ii) more than 2,250 gallons but not more than 2,500
12 gallons annually of hydrocarbon-based solvents used in a
13 drycleaning machine equipped with a solvent reclaimer, or
14 (iii) more than 4,500 gallons but not more than 5,000
15 gallons annually of hydrocarbon-based drycleaning
16 solvents in a drycleaning machine without a solvent
17 reclaimer.

18 (11) \$1,500 for a facility that uses (i) more than
19 500 gallons but not more than 550 gallons of
20 chlorine-based or green drycleaning solvents annually,
21 (ii) more than 2,500 gallons but not more than 2,750
22 gallons annually of hydrocarbon-based solvents in a
23 drycleaning machine equipped with a solvent reclaimer, or
24 (iii) more than 5,000 gallons but not more than 5,500
25 gallons annually of hydrocarbon-based drycleaning
26 solvents in a drycleaning machine without a solvent
27 reclaimer.

28 (12) \$1,500 for a facility that uses (i) more than
29 550 gallons but not more than 600 gallons of
30 chlorine-based or green drycleaning solvents annually,
31 (ii) more than 2,750 gallons but not more than 3,000
32 gallons annually of hydrocarbon-based solvents in a
33 drycleaning machine equipped with a solvent reclaimer, or
34 (iii) more than 5,500 gallons but not more than 6,000

1 gallons annually of hydrocarbon-based drycleaning
2 solvents in a drycleaning machine without a solvent
3 reclaimer.

4 (13) \$1,500 for a facility that uses (i) more than
5 600 gallons of chlorine-based or green drycleaning
6 solvents annually, (ii) more than 3,000 gallons but not
7 more than 3,250 gallons annually of hydrocarbon-based
8 solvents in a drycleaning machine equipped with a solvent
9 reclaimer, or (iii) more than 6,000 gallons of
10 hydrocarbon-based drycleaning solvents annually in a
11 drycleaning machine equipped without a solvent reclaimer.

12 (14) \$1,500 for a facility that uses more than
13 3,250 gallons but not more than 3,500 gallons annually of
14 hydrocarbon-based solvents in a drycleaning machine
15 equipped with a solvent reclaimer.

16 (15) \$1,500 for a facility that uses more than
17 3,500 gallons but not more than 3,750 gallons annually of
18 hydrocarbon-based solvents used in a drycleaning machine
19 equipped with a solvent reclaimer.

20 (16) \$1,500 for a facility that uses more than
21 3,750 gallons but not more than 4,000 gallons annually of
22 hydrocarbon-based solvents in a drycleaning machine
23 equipped with a solvent reclaimer.

24 (17) \$1,500 for a facility that uses more than
25 4,000 gallons annually of hydrocarbon-based solvents in a
26 drycleaning machine equipped with a solvent reclaimer.

27 For purpose of this subsection, the quantity of
28 drycleaning solvents used purchased annually shall be
29 determined as follows:

30 (1) in the case of an initial applicant, the
31 quantity of drycleaning solvents that the applicant
32 estimates will be used during his or her initial license
33 year. A fee assessed under this subdivision is subject
34 to audited adjustment for that year; or

1 (2) in the case of a renewal applicant, the
2 quantity of drycleaning solvents actually used in the
3 preceding license year.

4 The Council may adjust licensing fees annually based on
5 the published Consumer Price Index - All Urban Consumers
6 ("CPI-U") or as otherwise determined by the Council.

7 (d) A license issued under this Section shall expire one
8 year after the date of issuance and may be renewed on
9 reapplication to the Council and submission of proof of
10 payment of the appropriate fee to the Department of Revenue
11 in accordance with subsections (c) and (e). At least 30 days
12 before payment of a renewal licensing fee is due, the Council
13 shall attempt to:

14 (1) notify the operator of each licensed
15 drycleaning facility concerning the requirements of this
16 Section; and

17 (2) submit a license fee payment form to the
18 licensed operator of each drycleaning facility.

19 (e) An operator of a drycleaning facility shall submit
20 the appropriate application form provided by the Council with
21 the license fee in the form of cash or guaranteed remittance
22 to the Department of Revenue. The license fee payment form
23 and the actual license fee payment shall be administered by
24 the Department of Revenue under rules adopted by that
25 Department.

26 (f) The Department of Revenue shall issue a proof of
27 payment receipt to each operator of a drycleaning facility
28 who has paid the appropriate fee in cash or by guaranteed
29 remittance. However, the Department of Revenue shall not
30 issue a proof of payment receipt to a drycleaning facility
31 that is liable to the Department of Revenue for a tax imposed
32 under this Act. The original receipt shall be presented to
33 the Council by the operator of a drycleaning facility.

34 (g) An operator of a dry cleaning facility who is

1 required to pay a license fee under this Act and fails to pay
2 the license fee when the fee is due may shall be assessed a
3 penalty of \$5 for each day after the license fee is due and
4 until the license fee is paid. The penalty shall be effective
5 for license fees due on or after July 1, 1999.

6 (h) The Council and the Department of Revenue may adopt
7 rules as necessary to administer the licensing requirements
8 of this Act.

9 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

10 (415 ILCS 135/65)

11 (Section scheduled to be repealed on January 1, 2010)

12 Sec. 65. Drycleaning solvent tax.

13 (a) On and after January 1, 1998, a tax is imposed upon
14 the use of drycleaning solvent by a person engaged in the
15 business of operating a drycleaning facility in this State at
16 the rate of \$3.50 per gallon of perchloroethylene or other
17 chlorinated drycleaning solvents used in drycleaning
18 operations, and \$0.35 per gallon of petroleum-based
19 drycleaning solvent, and \$1.75 per gallon of green solvents,
20 unless the green solvent is used at a virgin facility, in
21 which case the rate is \$0.35 per gallon. The Council shall
22 determine by rule which products are chlorine-based
23 solvents, and which products are petroleum-based solvents,
24 and which products are green solvents. All drycleaning
25 solvents shall be considered chlorinated solvents unless the
26 Council determines that the solvents are petroleum-based
27 drycleaning solvents or green solvents ~~subject to the lower~~
28 tax.

29 (b) The tax imposed by this Act shall be collected from
30 the purchaser at the time of sale by a seller of drycleaning
31 solvents maintaining a place of business in this State and
32 shall be remitted to the Department of Revenue under the
33 provisions of this Act.

1 (c) The tax imposed by this Act that is not collected by
2 a seller of drycleaning solvents shall be paid directly to
3 the Department of Revenue by the purchaser or end user who is
4 subject to the tax imposed by this Act.

5 (d) No tax shall be imposed upon the use of drycleaning
6 solvent if the drycleaning solvent will not be used in a
7 drycleaning facility or if a floor stock tax has been imposed
8 and paid on the drycleaning solvent. Prior to the purchase
9 of the solvent, the purchaser shall provide a written and
10 signed certificate to the drycleaning solvent seller stating:

11 (1) the name and address of the purchaser;
12 (2) the purchaser's signature and date of signing;
13 and

14 (3) one of the following:

15 (A) that the drycleaning solvent will not be
16 used in a drycleaning facility; or

17 (B) that a floor stock tax has been imposed
18 and paid on the drycleaning solvent.

19 A person who provides a false certification under this
20 subsection shall be liable for a civil penalty not to exceed
21 \$500 for a first violation and a civil penalty not to exceed
22 \$5,000 for a second or subsequent violation.

23 (e) On January 1, 1998, there is imposed on each
24 operator of a drycleaning facility a tax on drycleaning
25 solvent held by the operator on that date for use in a
26 drycleaning facility. The tax imposed shall be the tax that
27 would have been imposed under subsection (a) if the
28 drycleaning solvent held by the operator on that date had
29 been purchased by the operator during the first year of this
30 Act.

31 (f) On or before the 25th day of the 1st month following
32 the end of the calendar quarter, a seller of drycleaning
33 solvents who has collected a tax pursuant to this Section
34 during the previous calendar quarter, or a purchaser or end

1 user of drycleaning solvents required under subsection (c) to
2 submit the tax directly to the Department, shall file a
3 return with the Department of Revenue. The return shall be
4 filed on a form prescribed by the Department of Revenue and
5 shall contain information that the Department of Revenue
6 reasonably requires, but at a minimum will require the
7 reporting of the volume of drycleaning solvent sold to each
8 licensed drycleaner. The Department of Revenue shall report
9 quarterly to the Council the volume of drycleaning solvent
10 purchased for the quarter by each licensed drycleaner. Each
11 seller of drycleaning solvent maintaining a place of business
12 in this State who is required or authorized to collect the
13 tax imposed by this Act shall pay to the Department the
14 amount of the tax at the time when he or she is required to
15 file his or her return for the period during which the tax
16 was collected. Purchasers or end users remitting the tax
17 directly to the Department under subsection (c) shall file a
18 return with the Department of Revenue and pay the tax so
19 incurred by the purchaser or end user during the preceding
20 calendar quarter.

21 (g) The tax on drycleaning solvents used in drycleaning
22 facilities and the floor stock tax shall be administered by
23 Department of Revenue under rules adopted by that Department.

24 (h) On and after January 1, 1998, no person shall
25 knowingly sell or transfer drycleaning solvent to an operator
26 of a drycleaning facility that is not licensed by the Council
27 under Section 60. A person who violates this subsection is
28 liable for a civil penalty not to exceed \$500 for a first
29 violation and a civil penalty not to exceed \$5,000 for a
30 second or subsequent violation.

31 (i) The Department of Revenue may adopt rules as
32 necessary to implement this Section.

33 (Source: P.A. 90-502, eff. 8-19-97.)

1 (415 ILCS 135/75)

2 Sec. 75. Adjustment of fees and taxes. Beginning January
3 1, 2000, and annually after that date, the Council shall
4 adjust the copayment obligation of subsection (e) of Section
5 40, the drycleaning solvent taxes of Section 65, the license
6 fees of Section 60, or any combination of adjustment of each,
7 after notice and opportunity for public comment, in a manner
8 determined necessary and appropriate to ensure viability of
9 the Fund and to encourage the owner or operator of a
10 drycleaning facility to use green solvents. Viability of the
11 Fund shall consider the settlement of all current claims
12 subject to prioritization of benefits under subsection (c) of
13 Section 25, consistent with the purposes of this Act.

14 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

15 (415 ILCS 135/85)

16 Sec. 85. Repeal of fee and tax provisions. Sections 60
17 and 65 of this Act are repealed on January 1, 2020 ~~2010~~.

18 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)